

AMENDED IN SENATE AUGUST 8, 2012

AMENDED IN SENATE JULY 5, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2242

Introduced by Assembly Member Dickinson
(Principal coauthor: Assembly Member Alejo)
(Coauthors: Assembly Members Ammiano, Perea, and Swanson)

February 24, 2012

An act to amend Section 48900 of, and to repeal and add Section 48900.4 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 2242, as amended, Dickinson. Pupils: grounds for suspension and expulsion.

Existing law prohibits the suspension, or recommendation for expulsion, of a pupil from school unless the superintendent of the school district or the principal of the school determines that the pupil has committed any of various specified acts. Existing law also authorizes the assignment of a pupil suspended from a school to a supervised suspension classroom under certain conditions.

Under existing law, the acts for which a pupil may be suspended or recommended for expulsion include, but are not limited to, disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. These acts also

include, for a pupil enrolled in any of grades 4 to 12, inclusive, intentionally engaging in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

This bill would provide that, if the superintendent of the school district or the principal of the school in which a pupil is enrolled determines that a pupil has disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties, the pupil may be subject to other means of correction, community service during nonschool hours, or in-school suspension in a supervised suspension classroom, but not to an extended suspension, recommendation for expulsion, or expulsion.

The bill would move the language relating to a pupil enrolled in any of grades 4 to 12, inclusive, intentionally engaging in harassment, threats, or intimidation, directed against school district personnel or pupils, to another code section in place of the language relating to a pupil disrupting school activities or otherwise willfully defying valid authority. The bill would also make conforming and nonsubstantive changes.

This bill would incorporate additional changes to Section 48900 of the Education Code proposed by AB 1729 that would become operative if this bill and AB 1729 are enacted, and this bill is enacted last. This bill would also incorporate changes to that section proposed by AB 1732, which has been chaptered.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48900 of the Education Code, ~~as amended~~
2 ~~by Section 6 of Chapter 732 of the Statutes of 2011~~, is amended
3 to read:
4 48900. A pupil shall not be suspended from school or
5 recommended for expulsion, unless the superintendent of the school
6 district or the principal of the school in which the pupil is enrolled

determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stole or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

1 (k) For a pupil enrolled in any of grades 4 to 12, inclusive,
2 intentionally engaged in harassment, threats, or intimidation,
3 directed against school district personnel or pupils, that is
4 sufficiently severe or pervasive to have the actual and reasonably
5 expected result of creating substantial disorder, and invading the
6 rights of either school personnel or pupils by creating an
7 intimidating or hostile educational environment.

8 (l) Knowingly received stolen school property or private
9 property.

10 (m) Possessed an imitation firearm. As used in this section,
11 “imitation firearm” means a replica of a firearm that is so
12 substantially similar in physical properties to an existing firearm
13 as to lead a reasonable person to conclude that the replica is a
14 firearm.

15 (n) Committed or attempted to commit a sexual assault as
16 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
17 Code or committed a sexual battery as defined in Section 243.4
18 of the Penal Code.

19 (o) Harassed, threatened, or intimidated a pupil who is a
20 complaining witness or a witness in a school disciplinary
21 proceeding ~~for the purpose~~ *purposes* of either preventing that pupil
22 from being a witness or retaliating against that pupil for being a
23 witness, or both.

24 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
25 sold the prescription drug Soma.

26 (q) Engaged in, or attempted to engage in, hazing. For purposes
27 of this subdivision, “hazing” means a method of initiation or
28 preinitiation into a pupil organization or body, whether or not the
29 organization or body is officially recognized by an educational
30 institution, which is likely to cause serious bodily injury or personal
31 degradation or disgrace resulting in physical or mental harm to a
32 former, current, or prospective pupil. For purposes of this
33 subdivision, “hazing” does not include athletic events or
34 school-sanctioned events.

35 (r) Engaged in an act of bullying. For purposes of this
36 subdivision, the following terms have the following meanings:

37 (1) “Bullying” means any severe or pervasive physical or verbal
38 act or conduct, including communications made in writing or by
39 means of an electronic act, and including one or more acts
40 committed by a pupil or group of pupils as described in subdivision

(k) or in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) (A) "Electronic act" means ~~the transmission of a communication, including, but not limited to, a message, text, sound, or image, or a post on a social network Internet Web site~~ transmission, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or ~~pager~~ pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, or image.

(ii) A post on a social network Internet Web site, including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the

1 *basis that it has been transmitted on the Internet or is currently*
2 *posted on the Internet.*

3 (3) “Reasonable pupil” means a pupil, including, but not limited
4 to, an exceptional needs pupil, who exercises average care, skill,
5 and judgment in conduct for a person of his or her age, or for a
6 person of his or her age with his or her exceptional needs.

7 (s) A pupil shall not be suspended or expelled for any of the
8 acts enumerated in this section; ~~unless that~~ *the* act is related to
9 school activity or school attendance occurring within a school
10 under the jurisdiction of the superintendent of the school district
11 or principal or occurring within any other school district. A pupil
12 may be suspended or expelled for acts that are enumerated in this
13 section and related to *a* school activity or *school* attendance that
14 occur at any time, including, but not limited to, any of the
15 following:

16 (1) While on school grounds.

17 (2) While going to or coming from school.

18 (3) During the lunch period whether on or off the campus.

19 (4) During, or while going to or coming from, a
20 school-sponsored activity.

21 (t) A pupil who aids or abets, as defined in Section 31 of the
22 Penal Code, the infliction or attempted infliction of physical injury
23 to another person may be subject to suspension, but not expulsion,
24 pursuant to this section, except that a pupil who has been adjudged
25 by a juvenile court to have committed, as an aider and abettor, a
26 crime of physical violence in which the victim suffered great bodily
27 injury or serious bodily injury shall be subject to discipline pursuant
28 to subdivision (a).

29 (u) As used in this section, “school property” includes, but is
30 not limited to, electronic files and databases.

31 (v) A superintendent of the school district or principal may use
32 his or her discretion to provide alternatives to suspension or
33 expulsion, including, but not limited to, counseling and an anger
34 management program, for a pupil subject to discipline under this
35 section.

36 (w) It is the intent of the Legislature that alternatives to
37 suspension or expulsion be imposed against a pupil who is truant,
38 tardy, or otherwise absent from school activities.

39 *SEC. 1.5. Section 48900 of the Education Code is amended to*
40 *read:*

1 48900. A pupil shall not be suspended from school or
2 recommended for expulsion, unless the superintendent *of the school*
3 *district* or the principal of the school in which the pupil is enrolled
4 determines that the pupil has committed an act as defined pursuant
5 to any of subdivisions (a) to (r), inclusive:

6 (a) (1) Caused, attempted to cause, or threatened to cause
7 physical injury to another person.

8 (2) Willfully used force or violence upon the person of another,
9 except in self-defense.

10 (b) Possessed, sold, or otherwise furnished a firearm, knife,
11 explosive, or other dangerous object, unless, in the case of
12 possession of an object of this type, the pupil had obtained written
13 permission to possess the item from a certificated school employee,
14 which is concurred in by the principal or the designee of the
15 principal.

16 (c) Unlawfully possessed, used, sold, or otherwise furnished,
17 or been under the influence of, a controlled substance listed in
18 Chapter 2 (commencing with Section 11053) of Division 10 of the
19 Health and Safety Code, an alcoholic beverage, or an intoxicant
20 of any kind.

21 (d) Unlawfully offered, arranged, or negotiated to sell a
22 controlled substance listed in Chapter 2 (commencing with Section
23 11053) of Division 10 of the Health and Safety Code, an alcoholic
24 beverage, or an intoxicant of any kind, and either sold, delivered,
25 or otherwise furnished to a person another liquid, substance, or
26 material and represented the liquid, substance, or material as a
27 controlled substance, alcoholic beverage, or intoxicant.

28 (e) Committed or attempted to commit robbery or extortion.

29 (f) Caused or attempted to cause damage to school property or
30 private property.

31 (g) ~~Stolen~~ *Stole* or attempted to steal school property or private
32 property.

33 (h) Possessed or used tobacco, or products containing tobacco
34 or nicotine products, including, but not limited to, cigarettes, cigars,
35 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
36 packets, and betel. However, this section does not prohibit use or
37 possession by a pupil of his or her own prescription products.

38 (i) Committed an obscene act or engaged in habitual profanity
39 or vulgarity.

1 (j) Unlawfully possessed or unlawfully offered, arranged, or
2 negotiated to sell drug paraphernalia, as defined in Section 11014.5
3 of the Health and Safety Code.

4 ~~(k) Disrupted school activities or otherwise willfully defied the~~
5 ~~valid authority of supervisors, teachers, administrators, school~~
6 ~~officials, or other school personnel engaged in the performance of~~
7 ~~their duties.~~

8 *(k) For a pupil enrolled in any of grades 4 to 12, inclusive,*
9 *intentionally engaged in harassment, threats, or intimidation,*
10 *directed against school district personnel or pupils, that is*
11 *sufficiently severe or pervasive to have the actual and reasonably*
12 *expected result of creating substantial disorder, and invading the*
13 *rights of either school personnel or pupils by creating an*
14 *intimidating or hostile educational environment.*

15 (l) Knowingly received stolen school property or private
16 property.

17 (m) Possessed an imitation firearm. As used in this section,
18 “imitation firearm” means a replica of a firearm that is so
19 substantially similar in physical properties to an existing firearm
20 as to lead a reasonable person to conclude that the replica is a
21 firearm.

22 (n) Committed or attempted to commit a sexual assault as
23 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
24 Code or committed a sexual battery as defined in Section 243.4
25 of the Penal Code.

26 (o) Harassed, threatened, or intimidated a pupil who is a
27 complaining witness or a witness in a school disciplinary
28 proceeding ~~for the purpose~~ *purposes* of either preventing that pupil
29 from being a witness or retaliating against that pupil for being a
30 witness, or both.

31 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
32 sold the prescription drug Soma.

33 (q) Engaged in, or attempted to engage in, hazing. For purposes
34 of this subdivision, “hazing” means a method of initiation or
35 preinitiation into a pupil organization or body, whether or not the
36 organization or body is officially recognized by an educational
37 institution, which is likely to cause serious bodily injury or personal
38 degradation or disgrace resulting in physical or mental harm to a
39 former, current, or prospective pupil. For purposes of this

1 subdivision, “hazing” does not include athletic events or
2 school-sanctioned events.

3 (r) Engaged in an act of bullying. For purposes of this
4 subdivision, the following terms have the following meanings:

5 (1) “Bullying” means any severe or pervasive physical or verbal
6 act or conduct, including communications made in writing or by
7 means of an electronic act, and including one or more acts
8 committed by a pupil or group of pupils ~~as defined in~~ *described*
9 *in subdivision (k) or in Section 48900.2, 48900.3, or 48900.4,*
10 directed toward one or more pupils that has or can be reasonably
11 predicted to have the effect of one or more of the following:

12 (A) Placing a reasonable pupil or pupils in fear of harm to that
13 pupil’s or those pupils’ person or property.

14 (B) Causing a reasonable pupil to experience a substantially
15 detrimental effect on his or her physical or mental health.

16 (C) Causing a reasonable pupil to experience substantial
17 interference with his or her academic performance.

18 (D) Causing a reasonable pupil to experience substantial
19 interference with his or her ability to participate in or benefit from
20 the services, activities, or privileges provided by a school.

21 (2) (A) “Electronic act” means ~~the transmission of a~~
22 ~~communication, including, but not limited to, a message, text,~~
23 ~~sound, or image, or a post on a social network Internet Web site~~
24 ~~transmission,~~ by means of an electronic device, including, but not
25 limited to, a telephone, wireless telephone, or other wireless
26 communication device, computer, or ~~pager.~~ *pager, of a*
27 *communication, including, but not limited to, any of the following:*

28 (i) *A message, text, sound, or image.*

29 (ii) *A post on a social network Internet Web site, including, but*
30 *not limited to:*

31 (I) *Posting to or creating a burn page. “Burn page” means an*
32 *Internet Web site created for the purpose of having one or more*
33 *of the effects listed in paragraph (1).*

34 (II) *Creating a credible impersonation of another actual pupil*
35 *for the purpose of having one or more of the effects listed in*
36 *paragraph (1). “Credible impersonation” means to knowingly*
37 *and without consent impersonate a pupil for the purpose of bullying*
38 *the pupil and such that another pupil would reasonably believe,*
39 *or has reasonably believed, that the pupil was or is the pupil who*
40 *was impersonated.*

1 (III) *Creating a false profile for the purpose of having one or*
2 *more of the effects listed in paragraph (I). “False profile” means*
3 *a profile of a fictitious pupil or a profile using the likeness or*
4 *attributes of an actual pupil other than the pupil who created the*
5 *false profile.*

6 (B) *Notwithstanding paragraph (I) and subparagraph (A), an*
7 *electronic act shall not constitute pervasive conduct solely on the*
8 *basis that it has been transmitted on the Internet or is currently*
9 *posted on the Internet.*

10 (3) “Reasonable pupil” means a pupil, including, but not limited
11 to, an exceptional needs pupil, who exercises average care, skill,
12 and judgment in conduct for a person of his or her age, or for a
13 person of his or her age with his or her exceptional needs.

14 (s) A pupil shall not be suspended or expelled for any of the
15 acts enumerated in this section; ~~unless that~~ *the* act is related to
16 school activity or school attendance occurring within a school
17 under the jurisdiction of the superintendent of the school district
18 or principal or occurring within any other school district. A pupil
19 may be suspended or expelled for acts that are enumerated in this
20 section and related to *a* school activity or *school* attendance that
21 occur at any time, including, but not limited to, any of the
22 following:

23 (1) While on school grounds.

24 (2) While going to or coming from school.

25 (3) During the lunch period whether on or off the campus.

26 (4) During, or while going to or coming from, a
27 school-sponsored activity.

28 (t) A pupil who aids or abets, as defined in Section 31 of the
29 Penal Code, the infliction or attempted infliction of physical injury
30 to another person may be subject to suspension, but not expulsion,
31 pursuant to this section, except that a pupil who has been adjudged
32 by a juvenile court to have committed, as an aider and abettor, a
33 crime of physical violence in which the victim suffered great bodily
34 injury or serious bodily injury shall be subject to discipline pursuant
35 to subdivision (a).

36 (u) As used in this section, “school property” includes, but is
37 not limited to, electronic files and databases.

38 (v) ~~A~~ *For a pupil subject to discipline under this section, a*
39 superintendent of the school district or principal may use his or
40 her discretion to provide alternatives to suspension or expulsion;

1 including, but not limited to, counseling and an anger management
2 program, for a pupil subject to discipline under this section *that*
3 *are age appropriate and designed to address and correct the*
4 *pupil's specific misbehavior as specified in Section 48900.5.*

5 (w) It is the intent of the Legislature that alternatives to
6 suspension or expulsion be imposed against a pupil who is truant,
7 tardy, or otherwise absent from school activities.

8 SEC. 2. Section 48900.4 of the Education Code is repealed.

9 SEC. 3. Section 48900.4 is added to the Education Code, to
10 read:

11 48900.4. In addition to the means of correction specified in
12 Section 48900, a pupil may be subject to other means of correction,
13 as described in Section 48900.5, community service during
14 nonschool hours, as described in Section 48900.6, or in-school
15 suspension in a supervised suspension classroom pursuant to
16 Section 48911.1, but may not be subject to an extended suspension,
17 or recommended for expulsion, or expelled, pursuant to subdivision
18 (g) of Section 48911 and Sections 48915 to 48927, inclusive, if
19 the superintendent of the school district or principal of the school
20 in which the pupil is enrolled determines that the pupil has
21 disrupted school activities or otherwise willfully defied the valid
22 authority of supervisors, teachers, administrators, school officials,
23 or other school personnel engaged in the performance of their
24 duties.

25 SEC. 4. *Section 1.5 of this bill incorporates amendments to*
26 *Section 48900 of the Education Code proposed by both this bill*
27 *and Assembly Bill 1729. It shall only become operative if (1) both*
28 *bills are enacted and become effective on or before January 1,*
29 *2013, (2) each bill amends Section 48900 of the Education Code,*
30 *and (3) this bill is enacted after Assembly Bill 1729, in which case*
31 *Section 1 of this bill shall not become operative.*